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RULEMAKING TO ESTABLISH	§	PUBLIC UTILITY COMMISSION
ELECTRIC WEATHERIZATION	§	
STANDARDS	§	OF TEXAS

TEXAS SOLAR POWER ASSOCIATION’S RESPONSE TO STAFF DISCUSSION DRAFT

The Texas Solar Power Association (TSPA) files these Comments which address the Commission’s request for comments on weatherization of electric infrastructure. TSPA is a statewide industry trade association that promotes the development of solar electric generation. Our member companies invest in the development of solar photovoltaic products and projects in Texas, serving customers in both wholesale and retail markets.

As requested, this executive summary includes bullets to summarize the points more fully described in the detailed response below.

- This discussion draft is very difficult to implement. For example, how will the proposed weather study determine the 95th percentile of weather outcomes, when weather is a combination of a large number of variables that are not always well-correlated? Doing so would require many assumptions, at best, which reduce the value of having a regularly updated study.
- This discussion draft doesn’t create a proposed weatherization standard. Instead, it proposes a mechanism to create such a standard in the future. This creates substantial uncertainty for generators. No generator will know whether their facility is compliant until after the Rule is implemented and the proposed weather study is completed. From a compliance standard, this is not workable.
- The definitions should not cite the Protocols, to avoid procedural headaches.
- The “applicable rated capability as defined by ERCOT” is not well-defined and creates uncertainty for solar generators.

Response to Commission Staff questions:

1. *What is the availability of statistically reliable weather information from, e.g. the American Society of Heating, Refrigeration and Air Conditioning Engineers; National*

Weather Service; or other sources for the ERCOT power region? Please share the source of that information.

No comments.

2. *Do existing market-based mechanisms provide sufficient opportunity for cost recovery to meet the weather reliability standards proposed in the discussion draft? If not, what cost recovery mechanisms should be included in the proposed rule?*

This question is impossible to answer because the discussion draft does not propose a weather reliability standard. Instead, it proposes a mechanism to create a weather reliability standard. This creates an extraordinary amount of regulatory compliance uncertainty because the standard of performance required will not be known until after ERCOT performs its weather study, and even then, compliance would only be certain in five-year intervals. Since solar projects are predicated upon 35-year investment horizons, a variable and ever-changing standard of compliance may be untenable for investors. Therefore, we hope the Commission will consider a different approach based on a fixed standard, as suggested in our initial comments. If this alternative approach proves too complicated, the Commission could instead merely require compliance with NERC standards, like NERC, to meet the statutory deadline for implementing this Rule, and then come back if desired in two years to revisit the requirements.

§25.55 (b) Definitions

Generation Entity is proposed to be defined as *“Any ERCOT-registered Resource Entity with one or more ERCOT- registered Generation Resource or Energy Storage Resource, as those terms are defined in the ERCOT Protocols.”* Similarly, Resource is proposed to be defined as *“Resource - A Generation Resource or Energy Storage Resource as defined in the ERCOT Protocols”*

Because those terms could change from time-to-time without a Commission Rulemaking, a change to those Protocols could result in a violation of the Texas Administrative Procedures Act as it relates to when a Rulemaking is required. For example, if the definition of Generation Resource is modified by ERCOT, would comments on the proposed change be required by the Commission? To avoid this, TSPA encourages the Commission to use its own defined terms that ERCOT can reference instead. While Rules can and do refer to external standards or other criteria, the unique nature of the governance of the ERCOT Protocols makes this problematic. The ERCOT Protocols work well because they do not require the same level of scrutiny as Rules, and can be appealed to the Commission if a dispute arises. Mixing the Rules and Protocols in this way is a slippery slope.

§25.55(c) Weather Study

The proposed weather study creates difficulties for a number of reasons. First, it creates a *mechanism* to create a standard of performance, instead of the standard of performance itself. Even if this proposed study could be interpreted clearly on its own, no generator can know if they are compliant with the Rule when the Rule is adopted, if it included this mechanism. Given the very large penalties associated with violations of this Rule, this uncertainty is particularly concerning. Instead of a weather study, TSPA proposes that the Commission create clear standards that have specificity for a range of operating conditions, such as for temperature, precipitation, etc. If doing so is too complicated prior to the statutory deadline, the Commission could instead require compliance with NERC standards, and then revisit this Rule in a few years.

Ideally, each Resource would know whether they were compliant with the Rule, and could follow specific implementation procedures, and then be liable for penalties if they had a weather-related outage that was caused by the Resource's failure to follow the specified procedures.

§25.55(d) Weather reliability standard for a resource.

First, the proposed language “applicable rated capability as defined by ERCOT” is vague and creates uncertainty for solar generators. If this language refers to “installed capacity”, then solar can only meet it at certain times of the year. For solar resources, this should be based on the actual local solar irradiance on each day in question. Leaving this to ERCOT to determine later is not appropriate because it creates far too much uncertainty for solar compliance.

Second, due to uncertainty around the difficulty of a weather standard based on a percentile performance with so many variables, it is even more difficult to know whether the difference between the proposed basic weather reliability standard and the enhanced weather reliability standard is meaningfully different. This section would be improved if both proposed standards had specific requirements that could be designed by generators making decades-long investment decisions, instead of an unknown standard that would vary from time to time.

§25.55 (f) Compliance with weather reliability standards for a generation entity

This section and other sections discuss ERCOT creating rules. For clarity, TSPA recommends the Commission follow the example of 16 Tex. Admin. Code § 25.501 (TAC), which obligates ERCOT to do certain things, such as have a Day-Ahead Market and have nodal pricing. ERCOT is obligated to meet these Rule requirements, and does so through its Protocol revision process. If the Commission's Rules allowed ERCOT to make its own Rules, this could create procedural uncertainty. TSPA understands this rule can mean Protocols or other binding documents, but the fact that the administrative penalties applicability could be changed based on a change at ERCOT makes this proposed rule particularly concerning. Furthermore, it is difficult to know at this point if

this approach will be something that a Texas Professional Engineer can study and stamp, because the draft rule itself does not establish specific criteria for compliance.

§25.55 (h) Violation of weather reliability standards by a generation entity

This Section proposes that the commission will impose an administrative penalty on a generation entity that has violated subsection (d) of this section and does not cure the violation within *a reasonable period of time*.

Given the very high penalties associated with weatherization, TSPA respectfully requests that the Commission provide more detail as to what a *reasonable period of time* is to cure a violation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Charlie Hemmeline', is written over a horizontal line.

Charlie Hemmeline

Executive Director

Texas Solar Power Association